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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,018	06/24/2003	Joel K. Zupancic	1199 P 186	2586

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EXAMINER	
GRAVINI, STEPHEN MICHAEL	
ART UNIT	**PAPER NUMBER**
3749	

DATE MAILED: 08/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/603,018	ZUPANCIC ET AL.
	Examiner	Art Unit
	Stephen Gravini	3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 October 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *20031020*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 6-10, and 15-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Motev et al. (US 5,239,613). Motev is considered to teach the claimed system and method comprising:

a power intensity selector **65** capable of being selected by a user or receiving a power intensity value to be supplied to the device (wherein the disclosed heating element controller is considered patentably equivalent to the claimed selector because both allow a user to select a power intensity);

transmitting the generated power intensity output signal to the device or an application module **79** capable of generating a power intensity output signal (wherein the disclosed program control is considered patentably equivalent to the claimed responsive power intensity selector application module interaction), the application module further comprising:

a calculation interval; and,

a base resolution amount wherein the power intensity output signal being determined in response to the selected power intensity, the base resolution amount, and the calculation interval or generating a power intensity output signal in response to the received power intensity (please see column 10 lines 44-65 wherein the disclosed control panel operation by the implied user selection is considered to anticipate the claimed calculation interval and base resolution interval); and

a time cycle selector **89** providing a range of time duration for applying the power intensity output signal to the device or receiving a time cycle duration for applying the power intensity value to the device. Motev is also considered to disclose the claimed plurality of lamps **12** and infrared radiant panels at column 7 line 29).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 3-5 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Motev. Motev is considered to disclose the claimed invention, as discussed above under the anticipatory rejection, except for the claimed frequency basis, frequency value, and resolution amount. It would have been an obvious matter of design choice to recite a frequency basis, frequency value, and resolution amount, since the applicants have not discussed why those claim recitations would patentably distinguish the claimed

invention over the frequency basis, frequency value, and resolution amount implied in the prior art.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Motev in view of Kurachi (US 6,388,690). Motev is considered to disclose the claimed invention, as discussed above under the anticipatory rejection, except for the claimed lamp selection portion utilization. Kurachi is considered to disclose a feature of lamp selection portion utilization at column 5 line 54 through column 6 line 19. It would have been obvious to one skilled in the art to combine the teachings of Motev with the considered disclosed feature including lamp selection portion utilization for the purpose of providing an evenly applied power intensity selection for graphic printing precision.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. References A through B and D through F are considered to disclose a programmable power intensity application for graphic textile or paper design. Furthermore, it is considered that the invention, as broadly claimed, could be anticipated by any power application device or method involving a timed power application, such as a household toaster or domestic clothes dryer.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gravini whose telephone number is 703 308

7570. The examiner can normally be reached on normal weekday business hours (east coast time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira S. Lazarus can be reached on 703 308 1935. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

smg

July 27, 2004

Steph M Gravini